

By: Elkins

H.B. No. 2333

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to a breach of system security of a business that exposes  
3 consumer credit card or debit card information; providing a civil  
4 penalty.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 521.053(a), Business & Commerce Code, is  
7 amended to read as follows:

8 (a) In this section, "breach of system security" means  
9 unauthorized acquisition of computerized data that compromises the  
10 security, confidentiality, or integrity of sensitive personal  
11 information, credit card information, or debit card information  
12 maintained by a person, including data that is encrypted if the  
13 person accessing the data has the key required to decrypt the data.  
14 Good faith acquisition of sensitive personal information by an  
15 employee or agent of the person for the purposes of the person is  
16 not a breach of system security unless the person uses or discloses  
17 the sensitive personal information in an unauthorized manner.

18 SECTION 2. Subchapter B, Chapter 521, Business & Commerce  
19 Code, is amended by adding Sections 521.054 and 521.055 to read as  
20 follows:

21 Sec. 521.054. BREACH INVOLVING CREDIT CARD OR DEBIT CARD  
22 INFORMATION. (a) A business that accepts a credit card or debit  
23 card for payment and retains any data related to the card other than  
24 a confirmation number for the transaction shall secure the retained

1 information from a breach of system security, as defined by Section  
2 521.053.

3 (b) If a breach of system security occurs in which credit  
4 card or debit card information is compromised, the business shall:

5 (1) not more than 24 hours after the business  
6 discovers or receives notification of the breach of system  
7 security, send notice of the breach to the attorney general; and

8 (2) as soon as practicable after the business  
9 discovers or receives notification of the breach of system  
10 security, send notice of the breach to each financial institution  
11 that issued a credit or debit card affected by the breach.

12 Sec. 521.055. DATA SECURITY BREACH VICTIM COMPENSATION  
13 FUND. (a) The data security breach victim compensation fund is  
14 created as a dedicated account in the general revenue fund.

15 (b) The fund consists of money collected under Section  
16 521.1515.

17 (c) Money in the fund may be appropriated only to the  
18 attorney general to:

19 (1) pay claims to consumers who have suffered  
20 financial loss in relation to a breach of system security under  
21 Section 521.054; and

22 (2) reimburse a financial institution for costs  
23 associated with a breach of system security under Section 521.054.

24 (d) The office of the attorney general shall develop a  
25 claims process to make payments from the fund in accordance with  
26 Subsection (c).

27 SECTION 3. Subchapter D, Chapter 521, Business & Commerce

1 Code, is amended by adding Section 521.1515 to read as follows:

2 Sec. 521.1515. ADDITIONAL CIVIL PENALTY. (a) In addition  
3 to penalties assessed under Section 521.151, a business that fails  
4 to secure the business's computer system and suffers a breach of  
5 system security described by Section 521.054 is liable to this  
6 state for a civil penalty of \$50 for each credit card and debit card  
7 from which information was compromised.

8 (b) The attorney general may bring an action to recover a  
9 civil penalty under this section. Amounts collected by the attorney  
10 general under this section shall be deposited to the credit of the  
11 data security breach victim compensation fund created under Section  
12 521.055 and may be appropriated only as provided by that section.

13 SECTION 4. The changes in law made by this Act apply only to  
14 a breach of system security that occurs on or after the effective  
15 date of this Act. A breach of system security that occurs before the  
16 effective date of this Act is governed by the law in effect at the  
17 time the breach occurred, and that law is continued in effect for  
18 that purpose.

19 SECTION 5. This Act takes effect September 1, 2017.